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CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1927.

NO. 337.

THE WILLIAMSPORT WIRE ROPE COMPANY,
Petitioner,

v.

THE UNITED STATES.

BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CLAIMS.

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I.

Opinion Below.

The opinion of the Court of Claims is not yet officially reported. It has been set forth verbatim in the transcript, beginning on page 24.

II.

Jurisdiction.

The judgment of the Court of Claims, sought to be reversed, was entered May 2, 1927 (tr. 33). Jurisdiction to issue the writ is found in the provisions of Section 240 (b) and (c) of the Judicial Code, as amended by the Act of February 13, 1925.

III.

Question Presented.

The question presented is whether a Federal Court has jurisdiction to review the action of the Commissioner of Internal Revenue in computing or refusing to compute (the latter is the case here) a corporation's income and profits tax under the provisions of Sections 327 and 328 of the Revenue Act of 1918, 40 Stat. L. 1057 96, C. 18. In other words, is the application or non application of these two particular sections of the Revenue Act within the exclusive discretion of the Commissioner of Internal Revenue?

IV.

The Statute.

The relevant sections of the statute are 301, 325, 326, 327 and 328. They are quoted verbatim in the transcript beginning on page 17. The essential parts thereof read:

> "Sec. 327. That in the following cases the tax shall be determined as provided in section 328:
>
> (a) Where the Commissioner is unable to determine the invested capital as provided in section 326;
>
> • • • • • • •
>
> (d) Where upon application by the corporation the Commissioner finds and so declares of record that the tax if determined without benefit of this section would, owing to (fol. 25) abnormal conditions affecting the capital or income of the corporation, work upon the corporation an exceptional hardship evidenced by gross dispro-

portion between the tax computed without benefit of this section and the tax computed by reference to the representative corporations specified in section 328. This subdivision shall not apply to any case (1) in which the tax (computed without benefit of this section) is high merely because the corporation earned within the taxable year a high rate of profit upon a normal invested capital, nor (2) in which 50 per centum or more of the gross income of the corporation for the taxable year (computed under section 223 of Title II) consists of gains, profits, commissions, or other income, derived on a cost-plus basis from a Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive.

SEC. 328. (a) In the cases specified in section 327 the tax shall be the amount which bears the same ratio to the net income of the taxpayer (in excess of the specific exemption of $3,000) for the taxable year, as the average tax of representative corporations engaged in a like or similar trade or business, bears to their average net income (in excess of the specific exemption of $3,000) for such year. In case of a foreign corporation the tax shall be computed without deducting the specific exemption of $3,000 either for the taxpayer or the representative corporations.

In computing the tax under this section the Commissioner (fol. 26) shall compare the taxpayer only with representative corporations whose invested capital can be satisfactorily determined under section 326 and which are, as nearly as may be, similarly circumstanced with respect to gross income, net income, profits per unit of

business transacted and capital employed, the amount and rate of war profits or excess profits, and all other relevant facts and circumstances.

(b) For the purposes of subdivision (a) the ratios between the average tax and the average net income of representative corporations shall be determined by the Commissioner in accordance with regulations prescribed by him with the approval of the Secretary.

In cases in which the tax is to be computed under this section, if the tax as computed without the benefit of this section is less than 50 per centum of the net income of the taxpayer, the installments shall in the first instance be computed upon the basis of such tax; but if the tax so computed is 50 per centum or more of the net income, the installments shall in the first instance be computed upon the basis of a tax equal to 50 per centum of the net income. In any case, the actual ratio when ascertained shall be used in determining the correct amount of the tax. If the correct amount of the tax when determined exceeds 50 per centum of the net income, any excess of the correct installments over the amounts actually paid shall on notice and demand be paid together with interest at the rate of ½ of 1 per centum per month on such excess from the time the installment was due."

* * * * * * *

V.

Statement of the Case.

The facts are adequately stated in the transcript, beginning on page 1. A summary of the facts also appears in the preamble to the opinion of the learned court below, pages 24, 25 and 26.

In briefest possible form, the facts are—

That petitioner, a Pennsylvania corporation, duly filed its income and profits tax return for the calendar year 1918, which return showed a total tax liability of $306,381.77, and the tax shown thereby was paid within the time prescribed by law. The amount of the tax was in excess of 50% of the company's taxable income, but the taxpayer did not avail itself of the right granted under Section 328 (b), of paying as tax, a sum equal to 50% of its net income and petitioning for assessment under Section 328. Subsequently, the Commissioner of Internal Revenue caused an examination to be made of petitioner's books of account, and as a consequence of said examination, a number of alleged adjustments or corrections were made in petitioner's figures, the most consequential of which was an alteration in the book value of petitioner's inventories of raw material, work in process and finished merchandise. The Commissioner, through his field revenue agents, contended that the amount of petitioner's January 1, 1918, inventory should be increased $229,326.32, and that its closing inventory on December 31, 1918, should be increased $317,178.54. Through this change in the book value of the inventories, an alleged additional tax of $89,091.85 was computed against

the petitioner and, despite its protests, the amount was assessed, levied and collected on July 12, 1920. Petitioner contends that through this arbitrary adjustment of its inventories, which adjustments were carried all the way back to the year 1914, an abnormal condition was forced upon it, and it was thereby entitled to a computation of its tax under Section 328. Accordingly, on June 14, 1924, petitioner drafted and filed with the Commissioner, a claim for refund of $100,000.00, stating that the amount so claimed represented the amount by which the tax as computed by the Commissioner under Section 301 exceeded the tax when computed under Sections 327 and 328. After extended conferences and negotiations the Commissioner declined to refund and suit was thereafter duly instituted in the Court of Claims. In its petition (p. 9, tr.) taxpayer set forth a number of particulars of abnormality in both its taxable income and invested capital. On January 18, 1927, the defendant filed a special demurrer, attacking the sufficiency of the petition, and, secondly, raising the question of the jurisdiction of the court. On argument upon the demurrer on February 21, 1927, the defendant confined the issue to the question of the court's jurisdiction, and the court, in its opinion (tr. p. 24) sustained the demurrer upon the grounds of lack of jurisdiction.

VI.

Specification of Error Intended to Be Urged.

The error which petitioner urges as grounds for granting the writ is—

> The court erred in sustaining the demurrer and dismissing the amended petition as to the first cause of action.*

*NOTE—Plaintiff's second cause of action has been conceded and defendant has made settlement thereof by payment in full.

VII.

Argument.

If anyone were to assert that the legislative body of a democracy, with a republican form of government in the twentieth century, had deliberately passed a law placing it within the power of one man to say what the amount of tax of every corporation in the whole land should be, such assertion would be called incredible. And if the power of this one man to name the tax figure for the whole nation were made absolutely unreviewable and without appeal to any court, we would call that tyranny, unheard of in any civilized country in the world. Even the adherents of King George III claimed no such prerogative. Yet, incredible as it may seem, the decision of the Court of Claims means that Congress did that very thing.

The law provides for two ways of determining the tax liability. The first, under section 301, employs a mathematical formula wherein the amounts of taxable income and of invested capital are the

basic factors. But Congress recognized that under some circumstances this formula might be unworkable or result in hardship and injustice, and therefore provided, under sections 327 and 328, that in such cases there should be a second method of computing the amount of the tax. This method was to apply to the taxpayer the same average rate of tax as that of his representative competitors, a tax by comparison.

VII (b)

Short Digest of Lower Court's Opinion.

The learned court below says that the application of sections 327 and 328 is discretionary with the Commissioner and that it has no means to compel him to do that which he refuses to do.

The first reason in support of its conclusion (p. 31, tr.) is stated:

> "In his (Commissioner's) office and available to him, are the facts, the records, *voluminous* and *important*, upon which the Commissioner relies * * * upon no possible hypothesis has the court any means of knowing * * * what the amount of the tax would be * * *."

Because a thing may be burdensome or troublesome to a court, is that any reason to refuse to undertake it. The skillful counsel for the Commissioner bore heavily upon the argument that by taking jurisdiction the court would find itself involved with a hopeless mass of detailed statistics. But the truth is that one single sheet of paper from the Commissioner's files will show in summary form, all and everything necessary to correctly compute the tax

under sections 327 and 328. A photostatic copy of this document is attached hereto, last page, *infra*.

The second reason in support of its conclusion (p. 31, tr.) is stated –

> "The plaintiff paid no taxes under sections 327 and 328 • • • and until he (the Commissioner) does apply the provisions the court is powerless to proceed."

This evidently means that if the Commissioner were to apply sections 327 and 328 against the will of the taxpayer, the learned court below would then take jurisdiction. If that be true, how can it be asserted that the application or non-application of sections 327 and 328 is discretionary. It certainly cannot be discretionary with the Commissioner to not do a thing for one taxpayer and yet be subject to court review if he does the same thing to another taxpayer.

VII (c)

Congress Did Not Give the Commissioner Unreviewable Discretion.

By the plain wording of the statute this is apparent.

Section 327 provides in part:

> "That in the following cases the tax *shall* be determined as provided in Section 328." (Italics ours.)

There is no "discretion" about the word "shall". In fact, it is indicative of a mandate.

> "'Shall' ought undoubtedly to be construed as meaning 'must' for the purposes of sustaining or enforcing an existing right."

West Wisconsin Ry. Co. v. United States, 94 U. S. 100; *Martin v. Hunter*, 14 U. S., 304.

Section 328 provides in part that—

"(a) In the cases specified in Section 327 the tax shall be the amount which bears the same ratio to the net income of the taxpayer • • • as *the average tax of representative corporations* engaged in a like or similar trade or *business* bears to their average net income • • • for such year. • • •

"In computing the tax under this section the Commissioner shall compare the taxpayer only with representative corporations • • • which are, as nearly as may be, *similarly circumstanced* with respect to gross income, net income, profits per unit of business transacted and capital employed, the amount and rate of war profits or excess profits, and all other relevant facts and circumstances." (Italics ours.)

The use of the mandatory language and the very detailed requirements of Section 328 belie any suggestions that Congress gave the Commissioner the discretionary power of "fixing rates" and intended that he be sole arbiter, judge and executioner, and that his determinations can not be reviewed, not even by the judiciary, because "the king can do no wrong."

The Commissioner and his assistants are just as likely to err in determining a tax liability under Section 328 as under Section 301.

VII (d)

Action of the Commissioner Under Similar Acts Held Reviewable.

Congress, in enacting the Revenue Act of 1918, and other Revenue Acts, has been generous in conferring upon the Commissioner of Internal Revenue authority "to find", "to fix", "to determine" and the like, using such phrases as "to the satisfaction of the Commissioner", "whenever in the opinion of the Commissioner", "reasonable allowance", etc. These have not been held to confer upon the Commissioner an unreviewable discretionary power. In all of these instances, as well as in many others of similar character, the courts and the Board of Tax Appeals have reviewed the judgment of the Commissioner. What has really happened in the present case is that the defendant has confused the words "judgment" and "discretion".

In the administration and application of tax laws the Commissioner is required to exercise some judgment, but his decisions involving the exercise of that judgment are always subject to review. The following instances are cited showing the review of the judgment of the Commissioner. Unless otherwise noted, the sections referred to are those of the Revenue Act of 1918, the same Act as is here involved.

Section 203 provides:

> "That whenever *in the opinion of the Commissioner* the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the Commissioner, with the approval of the Secretary, may prescribe as

conforming as nearly as may be *to the best accounting practice* in the trade or business, and as most clearly reflecting the income. (Italics supplied.)

Whether the use of inventories is necessary to determine the income of a taxpayer, and what is the best accounting practice, are questions decided by the Commissioner which have been reviewed by the Board of Tax Appeals. Among the many decisions the following may be cited:

Appeal of The Thomas Shoe Company, 1 B. T. A., 124;
Appeal of Champion Store Co., 1 B. T. A., 656;
Appeal of George C. Peterson Co., 1 B. T. A., 690;
Appeal of When Clothing Co., 1 B. T. A., 973;
Appeal of The Russ Co., 2 B. T. A., 266.

Section 204 (b) provides that:

"If for any taxable year * * * it appears upon production of evidence *satisfactory to the Commissioner* that any taxpayer sustained a net loss, the amount of such net loss, shall under regulations prescribed by the Commissioner with the approval of the Secretary be deducted from the net income of the taxpayer for the preceding taxable year; * * *." (Italics supplied.)

Section 204 (a) defines in detail the term "net loss". In spite of the language used, this question has been before both the Board of Tax Appeals and the courts, and the decisions of the Commissioner

have been reviewed. Among the many cases decided by the Board of Tax Appeals, we cite—

Appeal of Butler's Warehouses, Inc., 1 B. T. A., 851.

The Court of Claims has reviewed the decision of the Commissioner under this section—

Auburn and Alton Coal Company v. United States, 61 Ct. Cl., 438.

The Board of Tax Appeals reviewed the decision of the Commissioner under a similar provision of the Revenue Act of 1921.

Appeal of J. H. Harrington, 1 B. T. A., 11; *Appeal of Carroll Chain Co.*, 1 B. T. A., 38.

In the latter case the Commissioner conceded the jurisdiction of the Board of Tax Appeals (1 B. T. A., 163).

Section 212 (b) provides that:

"The net income shall be computed upon the basis of the taxpayer's annual accounting period • • • in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as *in the opinion of the Commissioner* does clearly reflect the income. • • •" (Italics supplied.)

It does not appear of record that the Commissioner of Internal Revenue has ever claimed to have

"unreviewable discretion" under this section. At any rate, his decisions thereunder have been reviewed by the Board of Tax Appeals.

Appeal of Henry Birn, 1 B. T. A., 416;
Appeal of Harry & Kate Canaan, 1 B. T. A., 720;
Appeal of Max & Jennie Kass, 1 B. T. A., 1115;
Appeal of Morris Feuer, 1 B. T. A., 1113;
Appeal of Theresa Goodman, 1 B. T. A., 915;
Appeal of David Welch, 2 B. T. A., 64;
Appeal of Union Market, Inc., 2 B. T. A., 429.

The courts have also reviewed the decision of the Commissioner under this section. See, for instance—

Matter of the U. S. Metal Goods Co., 4 F. (2d), 871;
In re Sheinman, Bankrupt (U. S. D. C., E. D. Pa., July 30, 1926), 14 Fed. (2d), 323.

Section 214 provides:

"(a) That in computing net income there shall be allowed as deductions:

"(1) All the *ordinary and necessary expenses* paid or incurred during the taxable year in carrying on any trade or business, including a *reasonable allowance* for salaries or other compensation for services actually rendered, • • •."

• • • • • • •

"(8) A *reasonable allowance* for the exhaustion, wear and tear of property used in the trade or business, • • •."

• • • • • • • •

"(10) In the case of mines, oil and gas well, other natural deposits, and timber, a *reasonable allowance* for *depletion and for depreciation* of improvements, * * *." (Italics supplied.)

No provision of any revenue law involves the use and application of a higher degree of mature judgment than these provisions. Yet, the decisions of the Commissioner as to what expenses are "ordinary and necessary", what salaries and allowances are "reasonable", have been reviewed many times, by both the Board of Tax Appeals and the Courts. Among the many decisions we cite—

Appeal of L. Z. Dickey Grocery Company, 1 B. T. A., 108;
Appeal of Arthur H. Ingle, 1 B. T. A., 595.

In *Lynch v. Alworth Stephens Co.*, 294 Fed., 190, affirming 278 Fed., 959, the court revitwed the decision of the Commissioner under Section 12, Second, (b) of the Revenue Act of 1916, similar to paragraph (10) above quoted.

See also,

Cohen v. Lowe, 234 Fed., 474;
N. C. & St. L. Ry. Co. v. U. S., 269 Fed., 351.

Section 234 provides:

"(a) That in computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions:

"(7) A *reasonable allowance for the exhaustion*, wear and tear *of property* used in the trade or business, including a reasonable allowance for obsolescence." (Italics supplied.)

The decision of the Commissioner as to what is a "reasonable allowance for the exhaustion, wear and tear of property" was reviewed by the Board of Tax Appeals in *Appeal of The Farmers Grain Co.*, 1 B. T. A., 605.

There is nothing in which there exists more vagueness than in the determination of "value" for purposes of computing taxes, yet the courts have never regarded the Commissioner's right to determine value to be discretionary, and the books abound with cases wherein the decisions of the Commissioner have been reviewed by both the courts and the Board of Tax Appeals. Among the court decisions we may cite—

Dupan v. Miles, 276 Fed., 401;
Curley v. Tait, 276 Fed., 840;
Miles, Coll., v. Safe Deposit & Trust Co., 259 U. S., 247, affirming 273 Fed., 822;
Towne v. McElhenett, 274 Fed., 960;
Pitney v. Duffy, 291 Fed., 621;
Walter v. Duffy, 287 Fed., 41;
Great Northern Railway Co. v. Lynch, 292 Fed., 903;
Castner, Curran & Bullitt, Inc., v. Lederer, 275 Fed., 221;
Central Union Trust Co. v. Edwards, 287 Fed., 324, affirming 282 Fed., 1008;
Lynch v. Turrish, 247 U. S., 221.

VII (e)

Application of Law to Exceptional Cases.

The opinion of the learned court below continues (p. 32 tr.):

> "• • • the law, by its very terms indicates that only in exceptional cases is he (the Commissioner) to resort thereto."

This might be conceded, but as being no reason for denying jurisdiction. But this court will take judicial notice of the fact that a whole section of the Income Tax Unit, with hundreds of clerks has been doing nothing else but pass upon section 327 and 328 cases ever since 1918. It will also take judicial notice of Senate Report No. 27, 69th Congress, 1st Session, of the Select Committee of Investigation of the Bureau of Internal Revenue, page 259 *et seq.* There is the report of thousands of cases under sections 327 and 328.

VII (f)

The Urgent Need for Court Review.

The result of vesting anyone, even the most well intending, with unreviewable discretion, is inevitably favoritism and abuse. The Senate Committee so found it, and in its report, *supra*, page 214, stated—

> "The bureau's methods of administering the special assessment provision of the act have resulted in *gross discrimination between taxpayers.*"

VII (g)

There Is No Other Remedy.

The learned court below, in an income tax case, where the Commissioner contended that his judgment and discretion were unreviewable, said with great emphasis, that there was no such thing as unreviewable discretion, and

> "that such a contention seems so clearly untenable as to obviate any need of discussion, and that to sustain it would be to deprive taxpayers of a right accorded them by statute, and *leave them without a remedy* where remedy is provided."
>
> *Betts v. United States*, 62 Court of Claims, 10. Decided Feb. 1, 1926.

Yet, in the instant case, the learned court, after pointing out that the tax exacted, both the original amount and the alleged additional tax, was assessed under Section 301 (p. 31, tr.), says—

> "The plaintiff, in our view of the case, has mistaken the remedy."

It is well settled that there can be no remedy by mandamus. It is similarly definitely settled that it cannot be by injunction to restrain the Collector (*Graham v. du Pont*, 262 U. S., 234).

If there is any possible way to test the legality or correctness of the amount of an income tax exaction other than to pay the tax and sue to recover, what can it be?

VII (h)

The Power of Congress to Confer Unreviewable Discretion Upon the Commissioner.

The lower court continues (p. 32, tr.) by stating—

> "Plaintiff does not question the authority of Congress to confer the jurisdiction upon the Commissioner, nor challenge his good faith or charge abuse or discretion. * * *"

Plaintiff's counsel, both in the lower court and again here, insist: 1st, that Congress did not vest the Commissioner with any such unreviewable jurisdiction, either expressly or impliedly; and, 2nd, that if such a delegation of unlimited authority were attempted, it would be utterly unconstitutional for reasons so patent and obvious as to be unnecessary to point out.

Judge Dickinson, in the District Court for the Eastern District of Pennsylvania, states the rule with precision and clarity:

> "To hold, as we are asked to do, that the levy of the tax of the Commissioner is conclusive of the liability of the taxpayer, would be to render the Act of Congress wholly nugatory."
>
> *U. S. v. Radcliffe*, 14 Fed. (2nd), 989. Decided June 30, 1926.

The opinion of the lower court continues—

> "Plaintiff did not in the beginning question the amount of taxes it should pay. * * * No complaint was lodged against the exaction until additional taxes were assessed and demanded.

> Then for the first time the plaintiff insists upon its alleged right to special assessment."

It is not surprising that a court, heavily burdened with tax litigation, should now find it hard to understand that any taxpayer would be so credulous as to believe that if the initial payment of its tax were excessive, the amount of the excess would be voluntarily refunded by the Commissioner; a taxpayer who would take that risk rather than engage in a controversy with his government during a time of national peril. This petitioner confesses it did so. Moreover, no claim for assessment under sections 327 and 328 would ever have been made if the Commissioner had left the company unmolested. But when the Revenue Agents figured out $89,094.85 alleged additional tax by insisting that they, several years afterwards, were more competent to value the taxpayer's inventories than the company officials themselves,—then the company most properly said—

> "if you are going to force this absurd abnormal conditions upon us, we should have and must have assessment by comparison under sections 327 and 328"

It is true that counsel made no specific charge of lack of good faith or abuse of discretion against the Commissioner. But was that necessary? And what bearing could it have on the question of jurisdiction? What counsel did charge, and does now charge, is that the Commissioner has not proceeded according to law. Whether he did so innocently or deliberately, the amount of our damage is the same, and our only possible relief is to be given a "day in court" to prove the merits of our contention.

VII (1)

An Analagous Case.

This court now has before it the case of *Blair, Commissioner, plaintiff in error, v. Oesterlein Machine Company*, writ of *certiorari* granted to the Court of Appeals in the District of Columbia, May, 1927. That case is an exact analogy to the instant case, except that the Oesterlein Company fought off the alleged additional tax until 1924, when Congress created the Board of Tax Appeals. It then appealed to the Board. There, as here, the Commissioner contended he had "unreviewable discretion". He successively made the same contention in the Supreme Court of the District and the Court of Appeals. All three tribunals have unanimously decided against him. The opinion of the Court of Appeals, handed down January 3, 1927 (17 Fed. (2nd), 663), though cited to and urged upon the learned court below, was neither distinguished nor mentioned.

VII (J)

Conclusion.

The opinion of the learned court below concludes by saying—

> "We are without jurisdiction to substitute our judgment for the Commissioner's until he exacts taxes under Sections 327 and 328 and the same are paid thereunder * * * . We are without jurisdiction to award a judgment as claimed upon the court's computation of what might under the law be due."

That means that if the Commissioner had granted us assessment under sections 327 and 328 and our complaint was that he made the computation thereunder incorrectly and improperly through having used unrepresentative concerns as comparatives in arriving at his rate of tax, then the court would have jurisdiction. But if the Commissioner flatly denies assessment under 327 and 328, there is no jurisdiction in the court. Can it be that any court could have jurisdiction to determine whether a thing has been done correctly and properly and still have no jurisdiction to determine whether it should be done at all? Or, assume that we were in court asking for assessment under section 301 and complaining that the Commissioner has incorrectly and unlawfully forced upon us assessment under sections 327 and 328. Under the reasoning of the learned court below, there would be no jurisdiction because we had paid no tax under 301.

The error of the learned court below arises from assuming that the law provides for two distinct and different taxes,—one under section 301 and the other

under 327 and 328. But the fact is there is only one tax, and that is the correct tax, which may be under either of the sections, according to the circumstances. In our complaint, which for the purpose of demurrer must be taken as true, we have alleged the imposition by the Commissioner of an incorrect excessive tax, the payment thereof, a refund filed and rejected. No matter how burdensome it might be to hear our case (which it will not be at all) and no matter what formula, method or line of reasoning the Commissioner employed in his computations, the jurisdiction is unaffected and the question remains,—*has the petitioner been forced to pay an excessively illegal tax under the law?*

Respectfully submitted,

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Attorney for Petitioner.

August 2, 1927.

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Treasury Department
Internal Revenue Bureau
Form 7305-Aug., 1921.

INCOME TAX (TECHNICAL) SPECIAL ASSESSMENT SECTION

APPEN

Comparative Statistics Data Sheet - Special Cases - 19

Comparative Statistics No: _____ Nature of Business _____

	Appellant	Comparative No. 1	Comparative No. 2	Comparative No. 3	Comparative No. 4	Comp No
Location						
Date of Organization						
1. Invested capital as adjusted						
2. Statutory intangibles						
3. Adjustments for inadmissible assets						
4. Interest-bearing indebtedness						
5. Noninterest-bearing indebtedness to stockholders						
6. Gross sales						
7. Other income						
8. Cost of goods sold						
9. Ordinary and necessary expenses						
10. Compensation of officers						
11. Repairs						
12. Interest						
13. Taxes						
14. Bad debts						
15. Exhaustion, wear and tear (including obsolescence)						
16. Amortization of war facilities						
17. Depletion						
18. Special deductions from income						
19. Net income						
20. Percentage of net income to gross sales						
21. Percentage of net income to adjusted invested capital						
22. Percentage of cost of sales to gross sales						
23. Excess profits						
24. War profits						
25. Net income per unit of business						
26. Profits tax						
27. Percentage of profits tax to net income						
28. Net income previous year						
29. Average net income prewar period						
30. Average invested capital prewar period						
31. Percentage of net income to invested capital prewar period						

Note.- Enter on the data sheet for both the appellant and the co

Prepared by _____, Resident Auditor.
Checked by _____, Date, _____
Reviewed by _____, Section Auditor.

Final profits tax
Per cent of final tax to ne
Constructed invested capita

INCOME TAX (TECHNICAL) SPECIAL ASSESSMENT SECTION

APPENDIX "B".

Comparative Statistics Data Sheet - Special Cases - 19

Nature of Business _____ Case No. _____

	Appellant	Comparative No. 1	Comparative No. 2	Comparative No. 3	Comparative No. 4	Comparative No. 5	Comparative No. 6	Average Comparatives
assets								
ss								
dness to stockholders								
nses								
(including obsolescence)								
ies								
me								
gross sales								
adjusted invested capital								
to gross sales								
ness								
o net income								
eriod								
ewar period								
invested capital prewar period								

Note.- Enter on the data sheet for both the appellant and the comparatives only statutory figures

Final profits tax _____ Appellant $ _____

Per cent of final tax to net income _____ Appellant % _____

Constructed invested capital _____ Appellant $ _____

_____, Resident Auditor.

_____, Date, _____

_____, Section Auditor.